

## REMARKS

The Office action dated July 01, 2008 has been received and carefully considered. The above amendments and the following remarks are submitted in response thereto.

Claim 1 has been amended for removing some of the features previously added thereto and for specifying a further detail of the invention.

By the amendment, claims 10-32 are now cancelled.

System claim 6 has been amended for removing some of the features previously added thereto and for specifying a further detail of the invention.

New claims 33-36 have been added.

Please note that the amendment and the addition of the new claims do not introduce new matter.

### **Claim Rejections - 35 U.S.C. §103(a)**

The Examiner rejected claims 1-13, 15-16, 20-21 and 26-32 as being unpatentable over Johnson et Al. (US 6,338,345) in view of Goupil (US 6,652,883).

Regarding claim 1, Johnson et Al ('345) deals with the treatment of gastroesophageal reflux disease and does not disclose any treatment of urinary incontinence.

Johnson et Al ('345) discloses the implant of prosthesis for treating gastroesophageal reflux disease, and teaches to implant bulking prosthesis in a portion of the lower esophagus.

According to the Examiner, Goupil ('883) teaches that it is well known to use a bulking material to treat a variety of problems such as GERD and urinary incontinence. Therefore, in the Examiner's opinion, a modification of Johnson et Al ('345) such that the bulking prosthesis is used to treat urinary incontinence would have been obvious in view of Goupil ('883) which shows that it is well known to treat both with a bulking prosthesis.

Actually, Goupil ('883) discloses that "some types of incontinence can be treated by injection of a bulking agent into the submucosa of the urethra". Anyway, Goupil ('883) fails to disclose where the bulking agent should be injected.

Therefore, the determination of the place where the bulking prosthesis is to be implanted cannot be obtained from Goupil ('883). Goupil ('883) fails to disclose at least a step of implanting a bulking prosthesis through the hole proximate to an external urethral sphincter.

As a consequence, none of Johnson et Al ('345) or Goupil ('883), either alone or in combination, can lead to the solution of present claim 1.

In view of the above considerations, the Applicant respectfully requests that the 35 U.C.S.

§103(a) rejection be withdrawn.

Regarding claim 6, neither Johnson et Al ('345) nor Goupil ('883) discloses that the distal end of the tubular instrument includes an inflatable balloon to assist with positioning of the distal end in the body of the patient. Therefore, the claimed solution of claim 6 is neither anticipated by each of them, nor rendered obvious by their combination.

In view of the above considerations, it is respectfully requested that the objection under 35 U.C.S. §103(a) be withdrawn.

### **Conclusion**

The Applicants respectfully submit that, in view of the current amendments, the Examiner's rejections are overcome and the Examiner's arguments are moot.

The Applicants respectfully submit that present claims 1 and 6 are allowable. Claims 2-5, 7-9 and 33-36 depend (directly or indirectly) upon independent claim 1 or 6. The Applicants further submit that each of these dependent claims incorporates the patentable aspects thereof, and is therefore allowable for at least the same reasons as discussed above. Accordingly, the Applicants respectfully request withdrawal of the corresponding rejection under 35 U.S.C. §103(a).

Moreover, the Applicant respectfully requests issuance of a Notice of Allowability.

Applicants' counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this application.

If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. BUG8-44251.

Respectfully submitted,  
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